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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

TOMORROW SCOTT,

Defendant and Appellant.

B289932

(Los Angeles County  
Super. Ct. No. BA462671)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ray G. Jurado. Affirmed.

David Zarmi, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Tomorrow Scott appeals from a judgment of conviction entered after a jury found her guilty of a second degree robbery (Pen. Code, § 211), in which she used a deadly and dangerous weapon, a knife (*id.*, § 12022, subd. (b)(1)). Scott admitted serving a prior prison term (*id.*, § 667.5, subd. (b)). The trial court imposed the low term of two years, plus one year each for the weapon use and prior prison term. The court suspended imposition of sentence and placed Scott on probation for five years, conditioned on service of 365 days in a residential treatment program.<sup>1</sup> We affirm.

## BACKGROUND

At approximately 12:40 p.m. on November 6, 2017, Dennis Morgan, the manager of the Dollar Tree on Vine Street, was stocking shelves in the store. Morgan observed Scott enter the store. Scott was wearing a black jacket and a red and black wig; she had on a backpack and was carrying two black bags.

Scott was in the store for 15 to 20 minutes. Although Morgan did not see Scott during the entire time she was in the store, Morgan did see her put a package of hair bands in a gray bag, which appeared to be full. Scott then began walking toward the exit, bypassing the cash registers. Morgan followed Scott and said, “Hey, are you gonna pay for that stuff because it is a lot of product?” Scott responded, “No.”

Morgan grabbed at the gray bag, and it ripped. Several Dollar Tree items fell out onto the ground. Morgan did not see what other items remained in the bag.

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<sup>1</sup> The trial court also imposed various fines and fees but indicated it could suspend them if Scott did well in the treatment program.

Scott told Morgan that she had a knife and pulled the knife out of her backpack. She said that she was not a punk and was not afraid of Morgan. She told him, "I'll stab you." Morgan told Scott that she had to leave the store. Scott lunged at Morgan with the knife. Morgan held a shopping basket in front of himself to block the knife thrusts.

Morgan handed his cell phone to Derrell Brittenum, who was working as the cashier, and asked Brittenum to call 911. When the 911 operator answered the call, Scott turned and began to walk away. Morgan grabbed the phone from Brittenum; once Scott was across the street, Morgan began following her. Morgan remained on the phone, giving updates as to his location, while he followed Scott at a distance. Morgan eventually lost sight of Scott after Scott turned a corner onto Cahuenga Boulevard.

Los Angeles Police Officer Erik Helmstetter and other officers responded to the 911 call. Officer Helmstetter met Morgan, who pointed out the direction in which Scott had gone. Morgan then returned to Dollar Tree.

Officer Helmstetter found Scott standing on the porch of a bungalow on the east side of Cahuenga Boulevard. A black backpack and a gray bag were behind her. There was a package of hair ties in the gray bag; Scott had some of the hair ties on her wrist. While other officers detained Scott, Officer Helmstetter canvassed the area. He found a larger black backpack, a black coat, and a knife by a nearby bungalow.

Other police officers went to the Dollar Tree, got Morgan, and brought him to the location Scott was being detained. Morgan identified Scott, explaining "That's [her] without the wig and without the jacket." Morgan identified the hair ties he had

seen Scott take from the store. The police then took him to another location, where he identified the jacket and the knife.

During the incident, Morgan was concerned about his safety and that of his employee and customers. Morgan's "blood went up" during the incident; he felt "a little bit of fear, but after the fact." He was mostly concerned with making sure Scott got arrested. Officer Helmstetter testified that when he encountered Morgan, Morgan appeared upset, but not afraid.

## DISCUSSION

We appointed counsel to represent Scott on this appeal. After review of the record, Scott's counsel filed an opening brief requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. On October 29, 2018, we sent a letter to Scott, advising her that she had 30 days within which to personally submit any contentions or issues which she wished us to consider. That letter was returned as undeliverable, with no forwarding address.

On November 14, 2018, Scott's counsel filed an application for an extension of time in which to file a supplemental brief. Counsel explained that he had forwarded the record to Scott "immediately after confirming with the Los Angeles County Sheriff's inmate locator that [Scott] was still located at the Terminal Annex address (since I had received no communication from [Scott]). However on Friday, November 9, 2018, I received the materials in return with notice that [Scott] was no longer at the Terminal Annex. After looking at the California Department of Corrections and Rehabilitation inmate locator, I discovered that [Scott] had been moved to: Tomorrow Scott, CDCR No.

BH5892, California Institution for Men,<sup>[2]</sup> Inmate's Housing, P.O. Box 441, Chino, CA 91708. Today, November 13, 2018, I repackaged and resent the materials to [Scott] at her new address. Because of the extensive delays that will impact [Scott's] ability to draft and file a supplemental opening brief, if any, I request a 30-day extension of time for appellant to file a supplemental opening brief until December 28, 2016."

We granted this request on November 14, 2018. As of March 25, 2019, we had not received a supplemental brief from Scott.

We have examined the entire record. We are satisfied that no arguable legal issues exist and that Scott's counsel has fully complied with his responsibilities. By virtue of counsel's compliance with the *Wende* procedure and our review of the record, we are satisfied that Scott received adequate and effective appellate review of the order entered against her in this case. (*People v. Wende, supra*, 25 Cal.3d at p. 441; accord, *People v. Kelly* (2006) 40 Cal.4th 106, 109-110.)

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<sup>2</sup> Scott was born male but self-identifies as female.

## DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

WEINGART, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.